**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20554**



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| **In the Matter of** | ) | |
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| **Improving Public Safety Communications in the 800 MHz Band** | ) | **WT Docket No. 02-55** |
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| | ) | |
| **Consolidating the 900 MHz Industrial/ Land Transportation and Business Pool Channels** | ) | |
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**To: The Commission**

## COMMENTS OF KENWOOD COMMUNICATIONS CORPORATION

**KENWOOD COMMUNICATIONS CORPORATION**

Christopher D. Imlay
Regulatory Counsel

BOOTH FRERET IMLAY & TEPPER, P.C.
5101 Wisconsin Avenue, NW
Suite 307
Washington, DC 20016-4120
(202) 686-9600

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## SUMMARY

Kenwood Communications Corporation (Kenwood), a major manufacturer of quality products and systems for the wireless telecommunications industry, submits its comments in response to the *Notice of Proposed Rule Making* (the Notice), FCC 02-81, released March 15, 2002. The Notice proposes to address increasing incidents of harmful interference to Public Safety communications systems at 800 MHz by soliciting proposals on how best to remedy such incidents. At the same time, the Notice expresses a desire to minimize disruption of incumbent licensees and the existing licensing structure in the 800 MHz band. Third, the Notice seeks to insure that there is adequate spectrum for Public Safety (PS) systems in the 800 MHz band or in other bands.

Kenwood is troubled by the Commission's hurried approach to a comprehensive solution to PS interference at 800 MHz. Kenwood is just as concerned as the Commission with increased incidents of interference at 800 MHz, not only to PS systems, but to incumbent SMR, Business, and I/LT systems as well. All agree that the problem is increasing and all agree that it must be resolved. However, the assumptions made regarding the root cause of the recent, substantial increase in interference are, Kenwood believes, based on an inadequate foundation of technical fact. There should be a technical inquiry to determine the principal cause of the interference. Kenwood believes that the study may reveal that the principal contributor to the interference is cellular architecture SMR systems in the 800 MHz band. If that is the case, it is reasonable and consistent with precedent to impose the burden of interference resolution on those licensees, rather than burdening the entire licensee base.

The Commission at 800 MHz has a competitive market for CMRS service. That level of competition is healthy for consumers and should not be disrupted by regulatory decisions that place a disproportionate burden on traditional SMR service providers, or which impose substantial costs and burdens on Business or Industrial/Land Transportation licensees where there is no necessary and offsetting benefit to them. Kenwood is unpersuaded that interference resolution in the short term requires more than a case-by-case approach, as is done in other radio services. However, if that process proves insufficient, band restructuring must be approached with caution, as it is by definition a sledge hammer solution, with severe disruption to traditional SMR service providers and Business and I/LT licensees.

Finally, should 800 MHz band restructuring be determined to be a necessary solution, it should be done in such a way as to insure that the problem is in fact solved; PS should be moved to 700 MHz, and the remainder of the band left alone, if at all possible. Reimbursement of all displaced licensees, in accordance with longstanding Commission precedent, should be made by the principal contributor to the interference problem, and the measure of displacement reimbursement should be the out-of-pocket cost of retuning, or replacement cost of equipment that cannot be retuned.

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Kenwood Communications Corporation (Kenwood), a major manufacturer of quality products and systems for the wireless telecommunications industry, hereby respectfully submits its comments in response to the *Notice of Proposed Rule Making* (the Notice), FCC 02-81, released March 15, 2002. The Notice proposes to address increasing incidents of harmful interference to Public Safety communications systems at 800 MHz by soliciting proposals on how best to remedy such incidents. At the same time, the Notice expresses a desire to minimize disruption of incumbent licensees and the existing licensing structure in the 800 MHz band. Third, the Notice seeks to insure that there is adequate spectrum for Public Safety (PS) systems in the 800 MHz band or in other bands. Finally, the Notice seeks comment on the Personal Communications Industry Association (PCIA) proposal to consolidate the Business and Industrial/Land Transportation (I/LT) Pools. Kenwood, for itself and on behalf of its more than 1500 affiliated dealers in the United States, submits the following comments in response to the Notice proposals.

## I. Introduction

1. Kenwood is in agreement with the main premise of the Notice, which is that there is increasing interference in the 800 MHz land mobile band. Kenwood's products are in widespread use by PS entities at 800 MHz, and the importance of reliability in this service is well-established. Because interference to mobile and portable PS transceivers typically manifests itself in digital systems as loss of coverage, and in analog systems as noise, the interference is insidious. It is also unpredictable. As such, it is necessary to address the matter on a priority basis.

2. Kenwood is also in agreement that the interference is increasing. Kenwood dealers report increased instances of interference, not only to public safety 800 MHz systems, but as well on General Category channels, Industrial/Land Transportation (I/LT) and Business channels, and in the Upper 200 SMR Channels. PMRS and CMRS licensees at 800 MHz are subject to increasing interference from facilities which utilize low-site, cellular architecture, in particular those providing cellular-type SMR service. Kenwood disagrees with some others with interests in this band concerning the cause of the interference, and thus the proper remedy for the interference. It is also noteworthy that there is no quantified data concerning the number of interference complaints included in the Notice. Some knowledge of the extent of the increase in interference complaints would assist in determining both the primary cause or causes, and the extent to which as disruptive a remedy as band restructuring is necessary.

3. Kenwood is gratified that the Commission's primary goal of reducing interference in the 800 MHz band is co-extensive with the goal of avoiding disruption of the current licensing plan for the band. A corollary to avoiding disruption of the licensing plan is that incumbent

licensees with substantial investment in channels and equipment in that band should not be disrupted. Commercial SMR facilities provide quality dispatch and interconnection service to customers, and do so competitively with cellular, PCS, other traditional SMR, and cellularized SMR services. This healthy competition, which benefits consumers, stands to be damaged by a solution to the interference problem which disrupts service to traditional SMR customers, or requires replacement of equipment or extensive retuning costs for SMR, Business, or I/LT licensees that are not reimbursed. Such a solution would be anticompetitive and is to be avoided at all costs.

4. Kenwood's assessment of the interference problem at 800 MHz is, to some extent, as the Commission has discussed it at paragraph 15 of the Notice: the four major categories of interference problems are intermodulation products, receiver overload, transmitter sideband noise, and analog-to-digital modulation conversion issues. However, this is just a list of categories of interference causes, and is too general to be sufficient as a statement of the problem and a basis for a remedy. The extent to which each of these problems contributes on a relative basis, and the individual contributors to the overall increase in interference to PS and other services at 800 MHz have not been determined or thoroughly studied on a technical basis. The Notice in this proceeding relies heavily on the "Best Practices Guide"[1] as the basis for the Commission's conclusions regarding the causes of the interference increase. Since a good understanding of the principal cause of the interference substantially leads to, if not determines,

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[1] See, *Avoiding Interference Between Public Safety Wireless Communications Systems and Commercial Wireless Communications Systems at 800 MHz - A Best Practices Guide*, December, 2000; prepared by a coalition of representatives of APCO, CTIA, Motorola, Nextel and PSWN.

the solution(s), Kenwood is not satisfied that the Commission is in a position to make a determination at this point of the proper long term solution.[2] As an initial step, Kenwood suggests that the Commission should undertake a thorough analysis of the major causes of the interference, and their relative contribution to the problem. If that is done, it is easier to address the long term solution to the problem and to find a solution that is permanent.

5. The wireless industry has discussed and developed a series of diverse plans for reconfiguring the 800 MHz band. Those plans will be proposed in comments filed in this proceeding and evaluated in reply comments. Kenwood has participated in many meetings of industry organizations on this subject. While various plans for restructuring the 800 MHz band have been discussed, some more complex than others, in Kenwood's view, the cart has been placed firmly ahead of the horse. Restructuring the 800 MHz band, and revisions in frequency coordination and licensing that inevitably accompany such an undertaking, presuppose that there is a fundamental incompatibility between and among 800 MHz licensees which can only be resolved by a wholesale "restructuring" of the band. It also presupposes that the interference burden must be shared equally among all or most 800 MHz licensees, regardless of the relative contribution of those licensees to the problem, and regardless of the necessity of the move from the perspective of interference avoidance to PS licensees.

6. Everyone agrees that 800 MHz PS interference must be resolved, and that it is a

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[2] For example, suppose that the Commission determines that receiver overload is not the primary source of the problem, but that transmitter filtering of low-site, cellular architecture systems is required. Frequency separation in that case would not offer a comprehensive solution, and therefore restructuring of the 800 MHz band alone would not be sufficient to resolve PS interference.

problem that is increasing at an intolerable rate. What is not well-enough known is why (in specific, not general, terms), and how to resolve it in the least disruptive manner to incumbent licensees. Nextel argues, for example, that it is unfairly labelled as the principal contributor to the increase in PS interference, when in fact the causes and contributors are several, including conventional cellular systems and others. That may be so, or it may be that the rapid expansion of Nextel's cellularized SMR system is the principal cause. What cannot be taken for granted, however, is how the burden of interference resolution is to be apportioned, and what course of action is best taken to accomplish interference resolution.

## II. Causes of PS Interference

7. At paragraph 18 of the Notice, the Commission discusses the intensification of the use of the 800 MHz band for both PS systems and what it generally terms CMRS facilities, including conventional SMR, cellular, and cellularized SMR facilities, in recent years. Certainly, that phenomenon is a "given". The Notice states that with the proliferation of CMRS antennas in urban areas, for example, there are increased incidents of mobile and portable PS transceivers in close proximity to the CMRS base transmitters. The PS devices, attempting to receive weak signals, are going to be subject to incidents of interference from the stronger CMRS base antennas. There are no guard bands at 800 MHz, and the geographic and spectral proximity of the PS mobile/portable transceivers and the CMRS low-site, relatively low power base stations may be expected to result in some interference due to brute-force overload of receivers.

8. However, anecdotally, the recent increase in interference to PS is attributed not to this phenomenon generally, but more specifically to the cellular architecture SMR systems such as that used by Nextel, especially on the interleaved channels. There is reason to believe that

elimination of PS interference created by Nextel operation would solve a substantial portion of the PS interference problem at 800 MHz. If that is the case, the bulk of the interference resolution burden is properly placed on Nextel. Indeed, Nextel has proven that it is willing to address PS interference problems on a case-by-case basis, and is in a position to reduce interference. The Nextel iDEN sites, for example, use hybrid combiners which may inadequately protect other users. Perhaps transmitter filtering might remedy some of the interference from Nextel transmitters. It is noteworthy that cellular architecture systems at 800 MHz are potential contributors to receiver desensing, especially within buildings.

9. Obviously, the fairest solution to PS interference would be to require that it be resolved on a case-by-case basis. Interference resolution in a given market is akin to EMC studies at an antenna farm: the cause of an interference problem is identified and the technical solution ascertained. Fairness dictates that the last in time to arrive at the site who is a contributor to the EMC problem is the one obligated to resolve it and to bear the burden and expense of doing so. "First in time, first in right" is appropriate in this context as a guiding principle. If, however, the Commission is persuaded that the interference problems in the aggregate are so widespread, or that the level of degradation of PS interference is so acute, as to preclude case-by-case interference resolution, then it would be necessary to conduct technical studies to determine the principal cause or causes of the interference. The Notice in this proceeding, however, generalizes the problem, and states the causes in general terms, to the extent that it presupposes that a local solution is not available in most cases. If one accepts that as a premise, the conclusion that refarming the 800 MHz band is a necessary solution is inescapable. Kenwood is not convinced that is so.

10. Kenwood suggests that the Commission undertake a study in a given market to determine the principal contributing cause of interference to PS systems. At the same time, it should determine whether the interference problems can be solved by filtering, power reduction, increases in the number or changes of placement of PS repeaters, changes in frequency coordination standards, or other technical, case-by-case solutions that do not involve restructuring of the entire band. If, after those studies, the Commission concludes that the PS interference cannot be resolved adequately, then the next step should be to address some relocation of PS licensees, or cellular-architecture SMR systems, or both.

## III. The Commission Must Not Disrupt Incumbent, Non-PS, Non-Cellular Licensees at 800 MHz

11. As discussed above, Kenwood suggests that the Commission has an insufficient basis to conclude that any large-scale restructuring of the 800 MHz band is necessary to address interference to PS in this band. Nor does it have sufficient technical evidence of the principal causes of that interference so as to fashion a remedy other than on a case-by-case basis. Nevertheless, the Commission states at Paragraph 20 of the Notice that it has tentatively concluded that there is a serious problem with PS interference that "deserves resolution". *One option*, the Commission states, is to restructure the 800 MHz band to "stem the increasing incidents of interference" to PS systems. The Commission notes, correctly, that no one restructuring proposal would "meet our goal of reducing or eliminating interference without burdening existing licensees." Therefore, it suggests that there may have to be a compromise, and adopt a "balancing of interests" approach, and asked for comments on the benefits and burdens of each band plan.

12. Kenwood recommends that the Commission not jump to any restructuring of the 800

MHz band as a solution, because it may not be necessary. While it is intuitively apparent that spectrally separating PS from other licensees on the interleaved channels would contribute to a solution, that solution, should it prove necessary, could be accomplished by a plan that merely moves the PS licensees away from the interleaved channels, without disrupting the remainder of the licensees in the band.

13. Should it prove necessary to provide spectral separation of, for example, the NPSPAC channels from the cellular band, there are means to accomplish this without relocating other licensees at 800 MHz who are neither receiving interference nor contributing substantially to PS interference. The point is, the Commission should not have to rush to judgment on a comprehensive plan to restructure the 800 MHz band. If, however, some changes are required, it should not be necessary to abandon the co-equal goals of (a) protecting PS from interference, and (b) not disrupting incumbent licensees. Nor is it necessary to "balance" one of those goals against another.

14. Avoiding disruption of incumbent non-cellular SMR, Business, and Industrial-Land Transportation licensees is important, because no proposal currently under discussion for restructuring the band which requires relocation of non-PS incumbents would, as a component, provide sufficient compensation for displacement costs or retuning expenses. Furthermore, the Commission has recently concluded auctions in this band, which stand to be rendered moot by several restructuring plans. Third, from the point of view of the traditional SMRs now operating, a restructuring plan that requires their customers to retune or obtain new equipment will eviscerate their customer base. Presently, the customer base for 800 MHz traditional SMR providers is fragile. SMR providers actively compete for customers with cellular, PCS, to

cellular-architecture SMR services. Any significant disruption of the service provided by conventional SMR companies will cause SMR customers to convert to a competing provider not subject to the disruption that retuning or replacement of equipment necessitates. The relocation of incumbents at 800 MHz, with or without compensation, is therefore anticompetitive; without compensation, the Commission will be favoring one type of CMRS provider over others in an overwhelming manner. If, as the industry seems to believe collectively, the most substantial contributor to PS interference is cellular-architecture SMR systems, and they are not able to address the interference caused on a case-by-case basis, then the burden of interference resolution, including the cost of relocation or retuning, should be borne by them.

## IV. Relocation Plans, If Necessary At All, Should Minimize Disruption of Incumbent Licensees

15. As discussed above, the Commission should not look first to the most complex solution to the interference problem. Kenwood is not convinced that band restructuring is necessary at all as an interference solution. However, should it be determined nevertheless that some restructuring is necessary now, it should be done in the simplest manner possible with the least impact on incumbent SMR, Business and Industrial-Land Transportation licensees in the band.

16. The NAM Channel realignment plan, discussed at Paragraph 21 of the Notice, would create three separate, adjacent contiguous blocks of PS, SMR and B/I-LT systems, and cellular architecture systems. The NPSPAC and interleaved PS channels would be consolidated into a 10 MHz block of PS spectrum at 806-811 MHz and 851-856 MHz. Digital SMR facilities using cellular architecture would occupy the segments now used by the NPSPAC channels and the

upper 200 SMR channels. These would abut the cellular band. Non-cellular SMR and B/I-LT would occupy the middle segment.

17. The Nextel proposal, discussed at Paragraph 23 of the Notice, would create two separate, adjacent contiguous channel blocks, essentially moving the PS segment to the lower portion of the band and CMRS digital facilities would be in the upper portion adjacent to the cellular band. Potentially a 2 MHz guard band would be created as well. As the Commission notes, this would require 800 MHz Business, SMR, and I/LT incumbents to relocate to other bands (or operate on a "secondary" basis in the digital SMR segment). No proposal to compensate these licensees is included in the proposal at all.

18. In Kenwood's view, neither of these proposals is acceptable whatsoever. Both would create severe disruption in service provided by Business, SMR and I/LT licensees. The Nextel proposal is a rather obvious anticompetitive effort to preclude competition to its cellular architecture SMR service, and to improve its market (and its competitive advantage) for purchasing SMR channels from incumbents. The Commission states, at Paragraph 25 of the Notice that it "is difficult to determine whether this required relocation (of non-PS incumbents) is a function of Nextel's asserted mitigation of interference in the 800 MHz band, whether it is a function of providing additional spectrum for public safety or, perhaps a combination of the two." Kenwood suggests that it is neither. Instead, it is an effort to address a problem largely of Nextel's own making by clearing the band of competitors, and imposing the cost of accomplishing that anticompetitive goal on those same competitors and incumbent licensees it is attempting to displace. Nextel's proposal must for that reason be rejected outright. The NAM proposal as well is disruptive to incumbents, though admittedly less so than the Nextel proposal.

It would, however, require even more relocation of PS licensees than would the Nextel proposal, and it is silent as to who pays for the substantial realignment of PS and other channels.

19. There are many other configurations of restructured 800 MHz channels now under discussion in the industry, though there appears little consensus with respect to any. Each assumes that frequency separation of PS from cellular architecture SMRs and other cellular systems in the 800 MHz band is necessary. More importantly, each assumes that 800 MHz restructuring alone will, in fact, resolve interference to PS. Most, other than those which simply propose moving all PS out of 800 MHz to the 700 MHz band, assume that the cost of relocation should be borne equally, or divided among the incumbents other than PS. And most, other than those which propose merely relocating PS to 700 MHz, ignore the effect of their plans on the completed 800 MHz auctions. Some proposals assume that, even if PS is relocated to 700 MHz, some restructuring of the 800 MHz channels will be necessary. Finally, there has been little or no thought given to the Canadian and Mexican border issues, and international agreements, which may preclude or at least substantially delay implementation of any 800 MHz restructuring proposal.

20. The assumptions made in these restructuring proposals should be tested in advance. First of all, it is not universally agreed that simply separating PS from low-site, cellular architecture systems within the 800 MHz band will in fact resolve the interference to PS. Before such a radical restructuring of the band is done, technical studies should be performed to determine whether the separation within the 800 MHz band, alone, will be sufficient. On the other hand, it is generally agreed that moving PS to 700 MHz would in fact solve the interference problem. There would be substantial support for a proposal that would relocate PS

to 700 MHz and leave the remainder of the 800 MHz band as it is. Obviously, the problem with that solution is the current unavailability of the 700 MHz band due to residual occupancy by incumbent television broadcasters and the anticipated delays in digital television rollout. It is uncertain when the 700 MHz band will become available for PS occupancy in all markets, and therefore 700 MHz provides only a longer term solution to the interference problem, rather than a short term solution.

21. Kenwood is not persuaded that, regardless of the extent to which PS is relocated to 700 MHz, restructuring of the 800 MHz band is necessary. Even if it is found to be a necessary component in PS interference reduction, the ability to implement it may take as long as the ultimate solution, which would be to move PS to 700 MHz. In any case, it is urged that the Commission not take any steps in this proceeding, other than perhaps issuance of a Further Notice with a specific proposal for moving PS incumbents at 800 MHz to 700 MHz at a fixed date certain in the future, and an endorsement of the *Best Practices* guide in the meantime.

## V. Costs of 800 MHz Relocation or Retuning Should Not Be Imposed on Licensees Which Are Not Contributors to PS Interference

22. The Commission has consistently, in cases involving relocation of incumbents to accommodate new (but incompatible) technologies, utilized a mechanism whereby displaced incumbents are reimbursed actual costs (and in the case of equipment that cannot be retuned or adapted to the new band or band segment, reimbursed for actual replacement cost). This was done, for example, in order to implement PCS at 2 GHz; in the 800 MHz auction proceedings; and most recently, in order to implement Mobile Satellite Service at 2 GHz in the bands formerly occupied by broadcast auxiliary licensees. *See, e.g. Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, 7 FCC Rcd. 6886

(1992); *Mobile Satellite Service at 2 GHz*, 12 FCC Rcd. 7388, 7396-7404 (1997); *Redesignation of the 17.7-19.7 GHz Frequency Band*, 15 FCC Rcd. 13,430 (2000) In the 17.7 GHz proceeding, the Commission reaffirmed its policy of placing the cost of involuntary relocation to comparable facilities on new entrants. 15 FCC Rcd. at 13,468, paragraph 78. This policy has been applied consistently in different contexts, and has been upheld each time on appeal. See, *Association of Public Safety Communications Officials International, Inc. v. FCC*, 76 F.3d 395, 397, 400 (D.C. Cir. 1996); *Small Business in Telecommunications, Inc. v. FCC*, 251 F.3d 1015, 1017, 1026 (D.C. Cir. 2001); *Teledesic, LLC v. FCC*, ___ F.3d ___, D.C. Cir. No. 00-1466, Decided December 28, 2001.

23. The situation is no different in this context, although cellularized SMR is not an "emerging technology", but merely a new entrant and an incompatible technology, vis-a-vis incumbent licensees at 800 MHz. The Commission has allowed the implementation of cellular architecture SMR systems which cause interference to incumbent users. Any displacement, whether of PS or non-PS licensees at 800 MHz, necessary to accommodate new entrants (such as, in this case, cellular architecture SMRs) should be reimbursed, so as to insure that the Commission's firm policy "that existing operations should not be disrupted during the transition to emerging (or in this case incompatible) technologies" is consistently applied.

24. Therefore, if the Commission proceeds as Nextel recommends (though Kenwood strenuously objects to that plan), and incumbent non-PS licensees are asked to relocate to 700 MHz or 900 MHz, or otherwise within the 800 MHz band, all expenses should be borne by Nextel, and replacement cost of equipment must be the measure of reimbursement, should any displacement occur. Furthermore, the Commission must insure that any such relocation is

equivalent, and that no degradation of service to PS or non-PS licensees is occasioned by the change.

## VI. Conclusions

25. Kenwood is troubled by the Commission's hurried approach to a comprehensive solution to PS interference at 800 MHz. Kenwood is just as concerned as the Commission with increased incidents of interference at 800 MHz, not only to PS systems, but to incumbent SMR, Business, and I/LT systems as well. All agree that the problem is increasing and all agree that it must be resolved. However, the assumptions made regarding the root cause of the recent, substantial increase in interference discussed in the Notice in this proceeding are, Kenwood believes, based on an inadequate foundation of technical fact. There should be a technical inquiry to determine the principal cause of the interference. Kenwood believes that the study may reveal that the principal contributor to the interference is cellular architecture SMR systems in the 800 MHz band. If that is the case, it is reasonable and consistent with precedent to impose the burden of interference resolution on those licensees, rather than burdening the entire licensee base.

26. The Commission at 800 MHz has a competitive market for CMRS service. That level of competition is healthy for consumers and should not be disrupted by regulatory decisions that place a disproportionate burden on traditional SMR service providers, or which impose substantial costs and burdens on Business or Industrial/Land Transportation licensees where there is no necessary and offsetting benefit to them. Kenwood is unpersuaded that interference resolution in the short term requires more than a case-by-case approach, as is done in other radio services. However, if that process proves insufficient, band restructuring must be approached

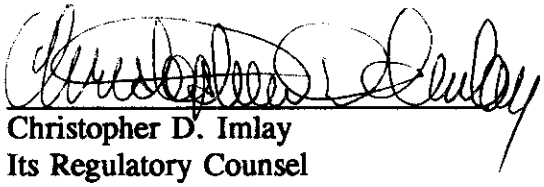
with caution, as it is by definition a sledge hammer solution, with severe disruption to traditional SMR service providers and Business and I/LT licensees.

27. Finally, should 800 MHz band restructuring be determined to be a necessary solution, it should be done in such a way as to insure that the problem is in fact solved; PS should be moved to 700 MHz, and the remainder of the band left alone, if at all possible. Reimbursement of all displaced licensees, in accordance with longstanding Commission precedent, should be made by the principal contributor to the interference problem, and the measure of displacement reimbursement should be the out-of-pocket cost of retuning, or replacement cost of equipment that cannot be retuned.

Therefore, the foregoing considered, Kenwood Communications Corporation respectfully requests that the Commission's decision in this proceeding reflect the foregoing comments.

Respectfully submitted,

**KENWOOD COMMUNICATIONS CORPORATION**

By: 

Christopher D. Imlay
Its Regulatory Counsel

BOOTH FRERET IMLAY & TEPPER, P.C.
5101 Wisconsin Avenue, NW
Suite 307
Washington, DC 20016-4120
(202) 686-9600

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